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| **Request for Qualifications** **Shawnee Mission Unified School****District No. 512****Send emailed response to:** [**alanmenn@smsd.org**](alanmenn%40smsd.org) **At this time only emailed responses will be accepted.**Shawnee Mission Unified SchoolsPurchasing Department**ATTN: Alan Menn**8200 West 71st StreetOverland Park, Kansas 66204 | Date: November 20, 2020 **Proposal #20-021** For: **Energy Conservation Services**Proposals will be accepted and opened on:Date: **DECEMBER 10, 2020**Day: **THURSDAY** Time: **2:00 p.m. CST****Conditions under which proposals are requested are included. Please review thoroughly.** |

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| Refer Inquiries To: **ALAN MENN**E-Mail address: [**alanmenn@smsd.org**](alanmenn%40smsd.org) |  | Name and Address of Offeror: |

All questions regarding specifications or proposal procedures should be directed to Alan Menn @ [alanmenn@smsd.org](alanmenn%40smsd.org), **NO LATER THAN FRIDAY, DECEMBER 4, 2020 @ 2:00 p.m**.

Responses to questions will be sent to all vendors in the form of an addendum.

**REQUEST FOR QUALIFICATIONS**

**FOR KSA 37, 125 ENERGY CONSERVATION SERVICES**

**Shawnee Mission School District**

**8200 W. 71st Street**

**Shawnee Mission, KS. 66204**

**INTRODUCTION AND BACKGROUND**

The Shawnee Mission School District (“District”) issues this Request for Qualifications and Proposals to solicit Energy Service Companies (ESCO)s’ to provide energy cost savings measures pursuant to KSA 75-37, 125, to assist the District in its goals of becoming operationally efficient through analyzing facility energy efficiency measures, optimization of building operations and on-going maintenance of equipment. The District desires to implement a KSA 75-37, 125 program on a performance based energy savings contract. (See KSA 75-37, 125 attached hereto).

Under this request, it is expected that only one ESCO Accredited by the National Association of Energy Service Companies (NAESCO) will be selected. The District will consider KSA 75-37, 125 service proposals based on a guaranteed savings agreement. This Request is for the identification and development of energy conservation measures on a district wide basis to be selected by the school district and installed as scheduled by the school district over the next several years.  The ESCO that is selected by the school district will be responsible for the identification, development and installation of the energy conservation measures.

It is currently planned that the District will purchase or lease purchase, finance, and own any new equipment installed as a result of the project. Respondents should clearly describe the proposed services associated with the procurement and installation of the new equipment. The District has the right to accept or reject any or all proposals and to waive any informalities in the review process. Late responses will not be accepted. The District is not liable for any cost incurred by any person or firm responding to this Request.

**K.S.A. 75-37,125**

**75-37,125. Energy conservation measure, financing; prior approval of plans and projects; definitions**

1. As used in this act:
2. “Federal entity” means the government of the United States of America or any bureau, department, instrumentality or other agency of the federal government.
3. “Political subdivision” shall have the meaning ascribed thereto in subsection (o) of [K.S.A. 74-8902](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS74-8902&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)), and amendments thereto.
4. “State agency” means any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of this state.
5. “Energy conservation measure” means an energy study, audit, improvement or equipment which is designed to provide energy and operational cost savings at least equivalent to the amount expended by a participating political subdivision or state agency for such energy study, audit, improvement or equipment over a period of not more than 30 years after the date such improvement or equipment is installed or becomes operational, as the case may be.

(b) Subject to the provisions of subsection (c), a political subdivision or state agency, which include the board of regents and a regent's institution and a community or technical college, may enter into a contract or lease-purchase agreement for an energy conservation measure which meets the criteria of this section. In addition to any other authority provided by law a political subdivision or state agency may solicit proposals to contract for an energy conservation measure by advertising for proposals and qualifications in a newspaper of general circulation or the Kansas register, and by sending requests for proposals to at least three vendors and negotiating a lease-purchase agreement with one or more vendors submitting a proposal thereto. Negotiations entered into pursuant to this section with individual vendors shall not be subject to the provisions of the open meetings act. After an agreement has been executed, the agreement and all proposals from vendors shall be open records available for public inspection in accordance with the open records act. A state agency may utilize the procedures prescribed in [K.S.A. 75-37,102](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS75-37%2c102&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)), and amendments thereto, by the procurement negotiating committee to negotiate and contract for energy conservation measures. Each state agency shall provide copies of plans of the proposed energy conservation measure to the state corporation commission for review. No state agency may enter into a contract for an energy conservation measure unless such measure has been approved by the state corporation commission. Plans submitted under this section shall be retained and maintained by the state corporation commission.

(c) Before executing any contract or finance, pledge, loan or lease-purchase agreement under this section, the energy conservation contractor shall provide the political subdivision or state agency with plans for the proposed energy conservation measures prepared by an engineer licensed to practice in Kansas. The energy conservation contractor shall also provide a report of the calculations showing the estimated energy and operational cost savings that would result from the proposed energy conservation measures. Notwithstanding any provision contained in [K.S.A. 71-201](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS71-201&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)) and [72-8225](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS72-8225&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)), and amendments thereto, or other provisions of law, the board of education of any school district and the board of any community college or technical college may enter into a contract or finance, pledge, loan or lease-purchase agreement for an energy conservation measure for a period exceeding 10 years. Political subdivisions and state agencies may include a provision in the contract with an entity providing the energy conservation measure requiring such entity to guarantee that the actual amount of savings of energy and operational costs attributable to the energy conservation measure be not less than the cost of the energy conservation measure over the time specified including financing costs.

(d) Within the limits of appropriations available therefor, the state corporation commission is authorized to provide grants for engineering studies and energy conservation measures for political subdivisions and state agencies.

(e) The state corporation commission, or its designee, may provide administrative support and resources available under the facility conservation improvement program under this section or [K.S.A. 75-37,111 et seq.](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS75-37%2c111&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)), and amendments thereto, as requested by school districts, private and public colleges in Kansas, political subdivisions, state agencies or federal entities for purposes of this section. The state corporation commission, or its designee, may fix, charge and collect reasonable fees for any administrative support and resources or other services provided by the state corporation commission, or its designee, under this subsection.

(f) The provisions of the cash basis law and [K.S.A. 79-2925](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS79-2925&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)), and amendments thereto, shall not apply to any contract or lease-purchase agreement entered into pursuant to this section.

**Shawnee Mission School District Representative**

**Proposal Questions**

All questions or needed information relative to this proposal package should be emailed to:

**Alan Menn**

**Shawnee Mission School District**

**8200 W. 71st Street**

**Shawnee Mission, KS. 66204**

**alanmenn@smsd.org**

Responses will be emailed to all vendors who received a bid. **Responses to questions received later than December 4, 2020 @ 2:00 p.m., may not be distributed due to time constraints.**

**Communication Protocol**

All communication must be directed through Alan Menn.

**Procedures**

**1.0 Required Qualification Submittals**

1.1 Submission of Proposals: At this time we are only accepting emailed responses to alanmenn@smsd.org.

1.2 Proposals are to be prepared simply, providing a straight forward, concise description of the organization’s capabilities to satisfy the requirements of this proposal. Emphasis should be on completeness and clarity of content. Repetitions of the terms and conditions of this proposal request, without additional explanation, will not be considered sufficiently responsive. Your proposal document should respond completely to the requirements indicated in this request.

1.3 Proposals must be received by email to [alanmenn@smsd.org](alanmenn%40smsd.org%20) on or before the time and date specified. Proposals received after the time and date specified, will not be considered.

1.4 Proposals information is restricted and not publicly available until after the award of the contract by Shawnee Mission School District.

1.5 All submissions become the property of the Shawnee Mission School District and will not be returned to the respondent.

**2.0** **Preparations of Proposals**

2.1 Respondents are expected to ask the District for all required information needed to fulfill the proposal requirements. It is not the responsibility of the District to deliver needed information to the respondent to fulfill the RFQ requirements without a formal request in writing from the respondent. This includes examining all drawings, utility bills, charts, specifications, requirements, schedules, instructions, etc.

2.2 The cost of preparing a response to this RFQ will not be reimbursed by the District.

2.3 Addendums received prior to Proposal submittal and screening selection should be acknowledged in the proposal document. Addendums received after the Proposal submittal should be acknowledged by email.

2.4 Facility analysis and saving calculations shall be performed in accordance with generally accepted engineering practices and professional judgment. All direct engineering and design work related to the installation or modification of facilities, and all installation and construction work, shall be performed by engineers and contractors respectively licensed in the State of Kansas.

2.5 Proposals shall be in accordance with State, Federal, and Municipal law, specifically, but not limited to, compliance with KSA Section 75-37,125.

**3.0 Modification or Withdrawal of Proposals**

3.1 A response to proposals that are in the possession of the District may be altered by letter or fax transmission bearing the signature or name of the person authorized for offering, providing it is received prior to the time of proposal submission. A letter or fax should not reveal the proposal price but should indicate the addition, subtraction, or other change in the proposal.

3.2 A response to proposals that are in the possession of the District may be withdrawn by the respondent in person or by written request up to the time of the Proposal opening. Responses to Proposals may not be withdrawn after the opening.

3.3 In submitting this proposal, it is understood that the right is reserved by the District to reject any and all proposals as non-responsive and to waive any irregularities or informalities when to do so is in the best interest of Shawnee Mission School District.

**4.0 Contract Period**

4.1 Contract period shall be within the guidelines of Kansas legislation (KSA 75-37, 125) which allows up to 30 years. The contract period will be mutually agreed upon between the District and the selected ESCO.

 **5.0 Extension**

5.1 The respondent and Shawnee Mission School District covenant and agree this proposal or subsequent contract may, with the mutual approval of the contractor and Shawnee Mission School District be extended as necessary, as long as it remains in accordance within the 30 year limit set forth under KSA 75-37,125.

**6.0 Esco Representative**

6.1 Successful respondent shall appoint, by name, a company representative who shall be responsible for servicing the contract from the award of this RFQ. The appointed representative shall be responsible for functions as necessary to insure the contract will be maintained in a professional manner.

1. **Interpretations**

7.1 No oral interpretations will be made for respondents as to the meaning of the RFQ. Request for interpretations to the meaning of the RFQ must be made in writing to the District no later than the date specified and failure on the part of the successful respondents to do so shall not relieve him/her of the obligations to execute such services. All interpretations made to the respondents will be issued in the form of addenda to the RFQ and will be sent to all respondents. Such addenda are to be covered in the proposals, and in closing the contract, they become a part thereof.

**8.0 Confidential Information**

8.1 It is to be understood that proposals made in response to this RFQ may contain technical, financial, or other data, the public disclosure of which would cause substantial injury to the respondent’s competitive position or that would constitute a trade secret. To protect this data from the disclosure, to the extent allowed by law, the respondent should specially identify the pages of the proposal that contain such information by properly marking the applicable pages and by inserting the following notice in the form of its proposal.

The data on the page identified by the ESCO for this proposal noted by an asterisk or marked along the margin with a vertical line may contain information which is trade secrets, disclosure of which would cause substantial injury to the respondent’s competitive position. The respondent may request that such data be used only for the evaluation of its proposal. The disclosure will be limited to the extent that the District determines is proper under federal, state and local law.

8.2 The District assumes no responsibility for disclosure or use of data. In the event properly marked data is legally requested, the respondent will be advised of the request and may expeditiously submit to the District a detailed statement indicating the reasons it has for believing that the information is exempt from the disclosure under federal, state, and local law. The District will exercise care in applying this confidentiality standard, but will not be held liable for any damage or injury which may result from any disclosure which may occur. Respondent agrees to assume and pay for all costs incurred by the District including attorney’s fees awarded by the court if the respondent requests the District to resist disclosure of material.

**9.0 Minimum Respondent(s) Eligibility Requirements**

9.1 Shawnee Mission School District is a public education system interested in receiving proposals from ESCOs in compliance with KSA 75-37, 125. Proposals are requested from firms capable of providing equipment and/or services necessary to achieve cost effective energy efficiency, reduce Shawnee Mission School District’s utility and operating costs, and provide guaranteed savings.

9.2 The District seeks only capable ESCOs with experience and qualifications in providing documented utility and operational expenditure savings. Note: Submittal of documentation to support required in-house certification and memberships is required.

1. ESCO must have successfully contracted and completed at least five (5) KSA 75-37, 125 projects for Kansas in the prior ten years. Projects completed by ESCO personnel while working for another company are excluded, since they do not represent the qualifications and experience of the specific responding ESCO.
2. ESCO must provide three (3) years of audited financial statements.
3. ESCO must be an Accredited ESCO by the National Association of Energy Service Companies (NAESCO). NAESCO Membership alone does not meet this requirement.
4. ESCO must have a service department with licensed technicians located within 50 miles of the District.

**10.0 Award and Purchase**

10.1 All qualifications and proposals will be evaluated, and the District may conduct interviews with any finalists to clarify information provided in the proposals and supplied qualifications. The District will make a final selection based upon factors in the best interest of the District.

 Qualifications will be evaluated and scored on criteria set forth below.

Pursuant to KSA 75-37,125, following the submittal of qualifications, the District will send requests for proposals to at least three vendors and negotiating a lease-purchase agreement with one or more vendors submitting a proposal thereto.

Negotiations entered into pursuant to this section with individual vendors shall not be subject to the provisions of the open meetings act. After an agreement has been executed, the agreement and all proposals from vendors shall be open records available for public inspection in accordance with the open records act. A state agency may utilize the procedures prescribed in [K.S.A. 75-37,102](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1001553&cite=KSSTS75-37%2c102&originatingDoc=NC8AAEBD0251111DE9580A11C53F117FE&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)), and amendments thereto, by the procurement negotiating committee to negotiate and contract for energy conservation measures. Each state agency shall provide copies of plans of the proposed energy conservation measure to the state corporation commission for review. No state agency may enter into a contract for an energy conservation measure unless such measure has been approved by the state corporation commission. Plans submitted under this section shall be retained and maintained by the state corporation commission.

The firm selected will be notified at the earliest practical date. The decision regarding acceptability of any firm’s Proposal shall remain entirely with the District. The criteria for selection will include but is not limited to demonstrated experience, referenced performance, service opportunities and specific responsiveness to the RFQ.

10.2 Shawnee Mission School District hereby notifies all respondents that minority business enterprises will be afforded full opportunity to submit proposals in response to this request and will not be discriminated against on the grounds of race, color, or national origin in consideration of an award. Respondent hereby agrees that any person is allowed to perform work regardless of race, religion, color, sex, national origin, or ancestry.

**Scope of Services**

**11.0 SCOPE OF SERVICES REQUESTED**

11.1 It is the intent of this Request to ascertain qualifications for KSA 75-37, 125 services. The District is interested in contracting for a full range of KSA 75-37, 125 services as allowed by Kansas legislation.

 Energy systems under the statute include, but are not limited to, heating, ventilation, air conditioning systems, lighting, windows, insulation, energy management controls, life safety measures that provide long-term operating-cost reductions, building operation programs that reduce operating costs, other energy conservation related improvements, including improvements to equipment related to renewable energy, water and other resource conservation, and other equipment, services, and improvements providing building efficiency.

 Energy services include but are not limited to, investment grade technical energy audit and report; design, acquisition, installation, modification, maintenance, commissioning, monitoring and training in the operation of new and/or existing energy systems which will reduce utility consumption associated with the hearing, ventilation and air conditioning system, the lighting system, building envelope, water usage, and other energy using devices, as well as for savings which would not reduce consumption per se, but are aimed at cost savings related to energy use, such as sewage, solid waste collection, fuel switching or demand reductions.

 Any energy and/or non-energy cost savings that may be attributable to this project will be rigorously reviewed and, if agreed to, will be limited to those that can be thoroughly documented and verified by the ESCO and approved by the District. Additional services may include continuing Operational and Maintenance (O&M) aspects for all improvements and/or training of District staff on routine maintenance and operation of systems as well as training of occupants.

* 1. Shawnee Mission School District is initially seeking to establish specific qualifications from interested ESCOs which are capable of providing comprehensive KSA 75-37, 125 services for this project. These services may include but are not limited to:
1. Buildings, Facilities and Sites Evaluation
	1. Review of facility space
	2. Review of sites and infrastructure
	3. Review building condition and systems
		* Lighting systems
		* Building envelope, windows, doors and environmental issues
		* Mechanical, electrical, plumbing systems
		* Technology
2. ASHRAE Level III Energy Audit
	1. KSA 75-37, 125 Pro Forma
	2. Energy Modeling
	3. Operational expenditure savings opportunities
		* Analysis of repairs, parts and outside services
		* Analysis of labor utilization
		* Energy reduction analysis
3. The design and specification of equipment and systems
	1. Mechanical, Electrical, Plumbing and technology
	2. Life cycle costing and obsolescence protection
4. Services associated with the procurement and installation of new equipment
5. Construction Management
6. System commissioning, training of custodial, maintenance, and administrative staff on energy efficient practices
7. Equipment maintenance on equipment installed

All of these services are relative to the operational expenditures of Shawnee Mission School District which will reduce costs associated with outside services, leases, labor, energy, future cost avoidance, utilities, and others as may be deemed necessary.

11.3 Guaranteed Savings:

 Improvements and services must result in guaranteed energy savings. Savings verification is required from the ESCO based on a guaranteed savings agreement. A guarantee is required to be greater than the project costs, and the combined savings achieved by the installed projects must be sufficient to cover all project costs including debt service.

 Any O&M savings proposed by the selected ESCO will be thoroughly reviewed and, if agreed to, will be limited to those that can be thoroughly documented and approved by the District.

11.4 The approved ESCO services must be provided in compliance with all applicable Federal and State rules and regulations including, but not limited to any applicable state and local regulations.

**12.0 GENERAL STATEMENT OF PURPOSE**

12.1 It is the intent of this request to solicit qualification statements from companies that describe their capability to implement a program to improve the operational efficiency of various Shawnee Mission School District facilities. It is anticipated that significant improvements can be made and paid for through energy and operational savings. The primary task of the successful energy service company is to reduce the total energy and operational expenditures associated with operating Shawnee Mission School District facilities.

12.2 Through the Request for Proposal process the District intends to screen proposals and select a firm to implement KSA 75-37, 125 services at selected Shawnee Mission School District sites.

12.3 Shawnee Mission School District requires a minimum guaranteed savings approach to the project. The guaranteed utility and other operational savings achieved by the installed projects must be sufficient together with funds provided by Shawnee Mission School District, in the judgment of Shawnee Mission School District in its sole discretion, to pay all project costs, including project debt cost and annual maintenance and monitoring fees, for the duration of the contract term.

* 1. The ESCO will be required to work with the current facility management and maintenance personnel, to coordinate construction and provide appropriate training in operation retrofits. No equipment shall be installed that will require the hiring of additional personnel by the District unless agreed to by Shawnee Mission School District in the contract.
	2. ESCO must provide reproducible “as built” and record drawings of all modified conditions associated with the project, conforming to typical engineering standards within 30 days of the completion of the installation. These should include architectural, mechanical, electrical, structural, and where appropriate, control drawings and operating manuals. Submit also in electronic format, AutoCAD and Word.
	3. Other contract provisions:

**13.0 PROCUREMENT**

The District will review and evaluate the written responses to this Request for Proposal in accordance with the evaluation criteria identified in Section 15. The District will then make the final decision for negotiating with and selecting the qualified Energy Services Company to perform the work and services pursuant to KSA 75-37, 125.

**14.0 TIMETABLE FOR SELECTION**

14.1 The timetable that the SHAWNEE MISSION SCHOOL DISTRICT expects to accomplish selection of a contractor is as follows:

**Advertise RFP November 23 and November 30, 2020**

**Sent RFP November 23, 2020**

**Written Questions Due December 4, 2020**

**Proposal Submittal Deadline December 10, 2020 @ 2:00pm**

**Board of Education Approval December 21, 2020**

**Award December 22, 2020**

**15.0 EVALUATION SCORING CRITERIA**

15.1 Shawnee Mission School District is anticipated to award a contract to the firm with the most responsive proposal which best meets the needs of Shawnee Mission School District. The criteria for making this evaluation will be based on the following.

(25%) ESCO Experience / Qualifications

(15%) Personnel Experience / Qualifications

(25%) Technical Aspects

(25%) Financial Stability and Performance

( 5%) Verification of Savings

( 5%) Other Items / Information as Necessary

(100%) Total Points in Scale

**FORMAT OF PROPOSAL CONTENTS**

**16.0 REQUIREMENTS FOR PROPOSAL CONTENTS** – The format of the response shall contain the following information, in the following sequence and format.

16.1 **Title Page**

 **Executive Summary**

 **Table of Contents**

16.2 **ESCO Experience/Qualifications –** Provide information which describes your company’s experience with services and KSA 75-37, 125 contracts most closely associated with the services requested in this RFP. The firms experience summary should include the following information:

1. Firm, address, personal contacts
2. Brief description of organization, local office (must be within 50 miles of District), and years in business
3. Provide total number of employees including key owners of organization
4. ESCO’s annual sales and energy performance contracting guaranteed savings liability.
5. Provide proof for Accredited by the National Association of Energy Service Companies (NAESCO). Membership alone does not meet this requirement.
6. Provide project based learning program experience and references.
7. Provide proof for being an approved ESCO for the United States Department of Defense and/or the Department of Energy.
8. References. References provided by employees implementing projects with different firms will not be considered or accepted.

16.3 **Personnel Experience / Qualifications-** Provide information regarding quantity, capabilities, experience, and credentials of employee’s who will be assigned to this contract. Identify specifically which of these people are currently in the full time employment of your company. Describe the role each of these employees play in executing the contract. Provide professional resumes for key people and organizational charts. Indicate the past projects worked on and for which firm the employee was working for at the time of the project, education and professional licensing of each person as it may relate to this project- i.e. Professional Engineer, LEED Certification, Engineer-in-Training, Professional Architect, Certified Energy Manager, etc.

 16.4 **Technical Aspects** - Provide specific information on your firm’s technical approach to meeting the District’s energy and operationally efficient objectives. Provide a draft of a schedule for the Investment Grade Audit, design, installation and Measurement and Verification Plan. Explain how your firm plans to minimize classroom disruptions. Also, explain how your firm plans to train district staff.

 16.5 **Financial Stability and Performance** - Provide the company’s annual report or, in the case of privately held companies, audited financial statements or equivalent for the three (3) most recent complete financial year periods. For this solicitation financial statements are defined as income statements, balance sheet, and statement of changes in financial position. Provide proof of insurance showing the coverage and the limits in place at the time of this RFP. Provide evidence of bonding ability. Disclose the nature of firm’s status; limited liability company, corporation, etc.

 16.6 **Verification of Savings** - Describe the methodology to be used to calculate and verify savings. Include and explanation of how savings calculations will be adjusted to reflect changes in weather, occupancy, utilization of the facility, etc. Describe your firms approach to monitoring the program to assure the project’s success and how the savings guarantee is reconciled. Provide a sample report that will be provided to the owner.

 16.7 **Other Items/Information as Necessary** – Please include any other items of information you think is necessary to establish you company as the most qualified ESCO to supply the requested services. Such items may include awards and credentials.

 16.8 **Final Contract and Agreements** – Provide a sample Performance Contract Agreement that has been utilized by a Kansas School District within the last five years.

**CONTRACT LANGUAGE REQUIREMENTS**

 **17.0 INSURANCE COVERAGE**

 17.1 The successful respondent shall have adequate professional liability coverage to include:

1. Workers compensation, in accordance with State’s Worker’s Compensation requirements.
2. Liability Insurance of $500,000 bodily insurance and $500,000 property damage to protect Shawnee Mission School District interest against claims for personal injury or death and damage to the property of others. Each shall be named in the policy or policies as insured.
3. Professional Liability Insurance: State the amount of coverage ($1,000,000 as minimum).
4. All insurance shall be carried with companies which are financially responsible. If any such insurance is due to expire during the contract period, the contractor shall not permit the coverage’s to lapse and shall furnish evidence of coverage to Shawnee Mission School District.
5. Claims against the respondents insurance should be in included in the respondent’s response. It should include total dollars of claims and any pending claim amounts.

**18.0**  **BID BOND**

18.1 No bid bond is required at this stage. Statutory requirements for Payment Bond, i.e. over

 $35K.

**19.0 PERFORMANCE BOND AND PAYMENT**

19.1 The successful ESCO will be required to provide a Performance Bond, Payment Bond and Statutory bond for 100% of the contract value. Respondents shall acknowledge their capabilities to provide a Performance Bond for the total construction costs at the time the contract documents are signed.

**20.0** **CONTRACTUAL PROVISIONS**

20.1 The contents of the RFQ submissions, as appropriate, become part of the final contract

20.2 Shawnee Mission School District must have access to inspect, test and approve both the work conducted in the facility, during construction and operations, and to the books, records, and other compilations of data which pertain to the performance of the provisions and requirement of this agreement. Records shall be kept on a general recognized accounting basis, and calculations kept on file in legible form.

* 1. All drawings, reports and materials prepared by the ESCO specifically in performance of the contract shall become the property of Shawnee Mission School District and shall be delivered to Shawnee Mission School District requested no later than upon completion of construction.
	2. Ownership of equipment, after project acceptance, must reside with Shawnee Mission School District.
	3. The District shall have the right to approve or deny any subcontractors.
	4. ESCO and any subcontractors, suppliers, or agents shall comply with all local, state, and federal laws, ordinances, and regulations, in all bids
	5. RETAINAGE

From each progress payment the Owner shall retain five percent (5%) until completion and acceptance of all work under this Contract.

**RFQ NO. 20-021**

**BID** OF:

A CORPORATON ORGANIZED AND EXISTING UNDER THE LAWS

OF THE

A PARTNERSHIP CONSISTING OF

 PARTNERS:

OR: A SOLE PROPRIETOR; HERINAFTER CALLED THE BIDDER.

TO: SHAWNEE MISSION PUBLIC SCHOOLS

 ATTN: Alan Menn

 8200 W. 71st Street

 SHAWNEE MISSION KS 66204

The undersigned acknowledges that he has received and familiarized himself with the following:

 Request for Qualifications

 Shawnee Mission Public School District #512

 RFQ Number 20-021 for Energy Conservation Services

ADDENDA NO(s): Received

In submitting this bid, it is understood that the right to reject any and all bids and to waive irregularities in the bidding has been reserved by the owner.

Date this day of , 2020.

Company

Address

City State ZIP

Phone Fax

Email Address Website Address Tax ID #

AUTHORIZED SIGNATURE

PLEASE PRINT NAME Date

**Terms and Conditions**

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| A. | Bid Requirements and Considerations:1. The Board of Education reserves the right to reject any or all bids, to accept any item or items in the bid, and to waive any informality in bids.2. Each bid must be completed on SMSD bid forms.3. Alternate bids will be considered only if the alternate properly meets specifications outlined in the bid.4. Each bid shall be accompanied by bid security in the amount of five percent (5%) of the base bid, made payable unconditionally to the school district. This security will be submitted as evidence of good faith as a guarantee that, if awarded the contract, the bidder will execute required bonds and insurance within ten (10) days after receipt of Notice to Proceed.5. Each bidder shall carefully examine the bidding documents and thoroughly inform himself with all requirements prior to submitting a bid. Should a bidder find discrepancies or ambiguities in, or omission from bidding documents, or should he be in doubt as to their meaning, he will at one and at least three days prior to bid date, notify the school district. Any subsequent addenda sent to bidders will become part of the contract documents.6. Prior to submitting a bid, each bidder shall examine and thoroughly familiarize himself with all existing conditions; including applicable laws, codes, ordinances, rules, and regulations that will affect his work. Bidders shall visit the site, examine the existing conditions, and shall ascertain by reasonable means, all conditions that will in any manner affect the work. Contractors and/or bidders are required to check in with building authorities at the school immediately upon entering the school premises.7. Prices quoted are to be free of all Federal, state, and local taxes, unless otherwise imposed by a governmental body and applicable to the work or material. The school district will obtain from the State of Kansas a sales tax exemption certificate number. The sales tax exemption certificate will permit the contractor to purchase materials for incorporation into this project without paying sales tax, provided that the contractor furnishes the certificate number to the supplier.8. When submitting a substitute article as equal, the full name and illustrated description must be given. The Board of Education reserves the right, however, to decide upon its suitability for the intended use. Upon request, samples of substitute articles must be submitted.9. Envelopes containing bids must be sealed and marked on the lower-left hand corner with the firm name and address of the bidder, bid number, bid opening date, and bid opening time.a. No special effort shall be made to sort incoming mail for potential bids.b. Bids not at the appointed place at time of bid opening will be rejected.c. Faxed Bid/Proposals will not be accepted as sealed bids.10. If bid is accepted, USD #512 must be supplied with seller’s employer identification number of social security number, per IRS regulations.11. Each contractor is responsible for his/her own worker’s compensation and liability insurance coverage. Shawnee Mission Unified School District #512 assumes this COVERAGE IS INCLUDED IN THE PRICE OF EACH BID TOTAL.12. Any catalog, brand name or manufacturer’s reference used herein is intended to be descriptive and not restrictive. Offers on any reputable manufacturer’s regularly produced product which is similar and substantially equivalent will be considered. SMSD reserves the right to make final decisions as to the acceptability of comparable items.13. Vendors who do not bid, but wish to remain on our bid list, should notify the Shawnee Mission USD #512 Purchasing Department in writing using the enclosed “Notice of No Response” form. Failure to do so may result in removal from this list.14. If required by the bid form, the contractor shall submit with his bid a list of subcontractors and other persons or organizations that will perform work on this project. |
| B. | Form and Requirements of the Contract: |
|  | 1. The form of contract will be a Purchase Order issued by Shawnee Mission School District. In submitting his bid for consideration, each bidder agrees to commence work as soon as practical upon receipt of the school district purchase order and subsequent execution of applicable bonds and certificates of insurance.2. The district shall not be responsible for any goods delivered or services performed without its purchase order signed by an authorized representative of the Purchasing Department.3. The contractor shall not commence work under this contract until he has obtained the owner’s approval of a certificate of insurance providing evidence that the has obtained all the insurance required under this section, at least equal to the limits set forth hereinafter, with an insurance company acceptable to the owner. All policies shall provide for ten (10) days written notice to the owner prior to effective date of any changes affecting the policy. Two copies of the certificate of insurance in a form acceptable to the owner shall be delivered to the owner. The contractor shall not allow any subcontractor to commence work until the subcontractor has obtained insurance coverage similar to that required of the contractor.4. For projects with a value of $20,000 or more; subsequent to award, the contractor shall furnish Performance Bond, Labor and Materials Payment Bond, and Kansas Statutory Bond covering the faithful performance of the contract and the payment of all obligations arising thereunder. All such bonds shall be submitted to the school district prior to the commencement of any contract work.5. Contracts entered into on the basis of submitted bids are revocable if contrary to law.6. The laws of the State of Kansas shall govern any contracts resulting from this bid. Actions must be filed in the Johnson County Courthouse in Johnson County, Kansas.7. The seller shall provide the standard patent infringement indemnity clause which shall hold and save the Board of Education and its officers, agents, servants, and employees, harmless from liability of any patented, or unpatented invention, process, article, or appliance manufactured, or used, in the performance of the contract, including its use by the Board of Education. |
| C. | General Work Requirements. |
|  | 1. The contractor will be required to start the work per the schedule included herein. Liquidated damages as stated on the bid form will be assessed for each consecutive calendar day which the work is not substantially complete, beginning with the first day beyond the substantial completion time stated. Substantial completion is the owner’s ability to utilize the facility for its intended purpose. Shawnee Mission Public Schools will be the sole judge of substantial completion.2. The owner reserves the right and may delay work if scheduling between school administration and contractor cannot be resolved.3. It will be the contractor’s responsibility to have the approaching licenses and permits required by the state and/or municipality in which the work will be performed. It is also the contractor’s responsibility to make certain all work ad material meets local and state codes. Bidders shall include permit fees in their bid.4. The contractor shall observe and comply with all ordinances, laws, and regulations, and shall protect and indemnify the owner against any claim or liability arising from or based on any violation of the same. The contractor shall comply with all regulations of agencies having jurisdiction with respect to sanitation and safety during construction.5. All items shall be new and unused, unless otherwise specified by the district, and in first class condition.6. Contractor shall be responsible for protection of the adjacent spaces during all phases of the project, demolition material storage and new construction.7. All items furnished must be of their respective kinds, and will be free from defects in material and workmanship. Items will be subject to our inspection and approval at any time. Items furnished must be manufactured in compliance with all existing legal or governmental directives.8. All work shall be of the highest quality. The contractor and subcontractor shall check their work regularly for quality and conformance as the work is in progress. Unsatisfactory work shall be corrected immediately.9. The contractor shall promptly correct work rejected by the owner or failing to conform to the requirements of the contract documents, whether observed before or after substantially completion and whether or not fabricated, installed or completed. The contractor shall bear all costs of correcting such rejected work, including additional testing and inspections and compensation for owner services and expenses made necessary thereby.10. As work is completed by the contractor/subcontractor, it shall be his responsibility to remove all excess material, equipment and debris from the premises.11. Upon substantial completion, a scheduled punchlist inspection shall be conducted by the school district to identify any item(s) requiring additional work. All items noted on the punchlist shall be accomplished by the contractor prior to final payment. |

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| D. | Miscellaneous Requirements |
|  | The law requires that Section 1 through 5 of KSA 44-1030 (as follows) are to be included in all contracts to which our agency is a party: Except those with contractors, vendors or suppliers whose cumulative dollar total in any fiscal year is $5,000.00 or less, or who have fewer than four (4) employees:1. The contractor shall observe the provisions of the Kansas act against discrimination and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, physical handicap unrelated to such person’s ability to engage in the particular work, national origin or ancestry;2. In all solicitations or advertisements for employees, the contractor shall include the phrase, “equal opportunity employer” or similar phrase to be approved by the commission;3. If the contractor fails to comply with the manner in which the contractor reports to the commission in accordance with the provisions of KSA 1976 Supp .44-1030, as amended, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency;4. If the contractor is found guilty of violation of the Kansas act against discrimination under a decision or order of the commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and5. The contractor shall include the provisions or paragraphs one (1) through (4) inclusively of this subsection (a) in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor. |
| E. | Payments to the Contractor: |
|  | In order for payment to occur on the “Payment Release Date”, the vendor’s INVOICE and the “BLUE” receiving copy of the Shawnee Mission purchase order must be received into the Business Office by the school cut-off date (preferably earlier) so that sufficient time is allowed for the payment to actually be processed through the Accounts Payable system.**INVOICES MUST BE SUBMITTED TO THE APPROPRIATE PROJECT MANAGER THREE DAYS PRIOR TO THE SCHOOL CUT-OFF DATE.** |

**CONTRACTOR AND VENDOR CODE OF CONDUCT**

Shawnee Mission School District requests that all contractor and vendor employees conduct themselves in an acceptable manner while performing work on school district property. The following items are prohibited on school district properties:

1. Physical or verbal contact with students or non-designated staff.
2. All school district properties are tobacco free. All tobacco, including smokeless tobacco, is prohibited. There are no designated areas for tobacco use. Contractors are required to post no tobacco signs. Smoking will not be permitted inside private vehicles which are on school district property. Workers may be required to sign a consent form acknowledging no tobacco use on the property. Violators may be required to leave the work site.
3. Drugs and/or alcohol consumed or present on district properties.
4. Firearms and hunting items.
5. Foul or abrasive language.

Additionally, all workers shall wear appropriate clothing on all parts of the body. All workers shall utilize areas for vehicle access and parking, material storage, etc. All workers shall wear nametags identifying their name and the name of the company they are representing.

**INSURANCE REQUIREMENTS**

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| A. | Worker’s Compensation Insurance: Worker’s Compensation and Employer’s Liability Insurance as required by law to cover fully all employees. |
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| B. | Bodily Injury and Property Damage Insurance: A comprehensive general bodily injury and property damage policy, including automobiles, covering the work to be performed. The policy shall be written to provide damage arising from one accident, with not less than $1,000,000 aggregate damages to, or destruction of property during the policy period; except, in case of automobile damage coverage, the minimum provided shall be not less than $1,000,000 bodily injury and $1,000,000 property damage per accident for any vehicle used on the project, whether owned, hired or nonowned. |
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| C. | Special Insurance: Contractor for General Construction work shall take out and maintain insurance providing a minimum coverage of $1,000,000 for the following hazards: |
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|  | Where the work to be performed involves excavation or other underground work or construction, the property damage insurance provided shall cover all injury to or destruction of property below the surface of the ground, such as wires, conduits, pipes, mains, sewers, etc., caused by the contractor’s operations, or injury to or destruction of property above or below ground resulting therefrom.Property damage insurance shall also cover the collapse of, or structural injury to, any building or structures on or adjacent to the owner’s premises, or the injury to or destruction of equipment and/or property resulting therefrom, caused by the removal of other buildings, structures, or supports, or by excavation below the ground, where the construction of a new structure or the demolition of any existing structure involves any of the foregoing designated hazards and in all cases where the contract provides for alterations in, additions to, or the underpinning of, and existing structure or structures. |
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| D. | Subcontractor’s Insurance: If a part of this contract is sublet, the contractor shall either cover any or all subcontractors in his insurance policies; **or** require each subcontractor to secure insurance which will protect him against all applicable hazards not covered by the contractor’s insurance. |
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|  | Certificate and Maintenance of Insurance: The contractor shall submit three (3) copies of Certificate of Insurance to the owner. The required insurance shall be maintained in force until the project is completed. |

